

201903682

Sergeant Natalie Bautista

On April 27, 2019, a man observed Sergeant Natalie Bautista and other officers stop and search another man. The observer did not believe the officers had the right to stop and search the first man. He called the CCRB to file a complaint, then approached the officers and told him he had done so.

The officers responded by asking the man if he was “emotionally disturbed” and if he was taking medication, and whether he needed to go to the hospital. Suspecting that the officers would claim he was mentally ill, the man took out his cell phone and started recording the incident. The officers then went towards their car and told the man that he would be arrested if he continued to film them. The man did not follow them across the street, but kept filming, when Sergeant Bautista and another officer crossed back towards the man and arrested him.

In her CCRB interview, Sergeant Bautista stated that the man had been arrested because he was standing in the middle of the street and blocking traffic. The man’s cell phone recording, along with the body worn camera of another officer, both show that the man never left the sidewalk but the officers walked back across the street, telling him to stop filming, before arresting him.

The CCRB found that Sergeant Bautista had improperly threatened to arrest the man and had issued a summons in retaliation for filming her rather than for any violation. It also found that there was evidence she had made a false statement when she claimed the man had crossed the street and was blocking traffic, when in fact the man had never left the sidewalk.

The person that Sergeant Bautista and the other officers searched prior to stopping the man who was recording them was never identified, and none of the officers filled out a stop, question, and frisk report for the incident, though it was captured on video.

The NYPD issued a Command Discipline to Sergeant Bautista for this incident.

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #5	CCRB Case #: 201903682	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/27/2019 11:48 PM	Location of Incident: [REDACTED]	Precinct: 40	18 Mo. SOL 10/27/2020	EO SOL 6/13/2021	
Date/Time CV Reported Tue, 04/30/2019 9:36 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/30/2019 9:36 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Natalie Bautista	01127	[REDACTED]	PSA 7
2. LT Eric Dym	00000	[REDACTED]	PSA 7
3. POM Jose Tejada	06150	[REDACTED]	PSA 7
4. POM Lorvin Fernandez	09421	[REDACTED]	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A . SGT Natalie Bautista	Abuse of Authority: Sergeant Natalie Bautista stopped an individual.	A . § 87(2)(g) [REDACTED]
B . LT Eric Dym	Abuse of Authority: Lieutenant Eric Dym stopped an individual.	B . § 87(2)(g) [REDACTED]
C . POM Lorvin Fernandez	Abuse of Authority: Police Officer Lorvin Fernandez stopped an individual.	C . § 87(2)(g) [REDACTED]
D . POM Jose Tejada	Abuse of Authority: Police Officer Jose Tejada stopped an individual.	D . § 87(2)(g) [REDACTED]
E . SGT Natalie Bautista	Abuse of Authority: Sergeant Natalie Bautista threatened to remove [REDACTED] to the hospital.	E . § 87(2)(g) [REDACTED]
F . LT Eric Dym	Abuse of Authority: Lieutenant Eric Dym threatened to remove [REDACTED] to the hospital.	F . § 87(2)(g) [REDACTED]
G . SGT Natalie Bautista	Abuse of Authority: Sergeant Natalie Bautista threatened to arrest [REDACTED]	G . § 87(2)(g) [REDACTED]
H . LT Eric Dym	Abuse of Authority: Lieutenant Eric Dym interfered with [REDACTED] use of a recording device.	H . § 87(2)(g) [REDACTED]
I . SGT Natalie Bautista	Abuse of Authority: Sergeant Natalie Bautista issued a summons to [REDACTED]	I . § 87(2)(g) [REDACTED]
J . LT Eric Dym	Abuse of Authority: Lieutenant Eric Dym issued a summons to [REDACTED]	J . § 87(2)(g) [REDACTED]
K . SGT Natalie Bautista	Other: There is evidence suggesting Sergeant Natalie Bautista provided a false official statement in violation of PG 203-08.	K . § 87(2)(g) [REDACTED]

### Case Summary

On April 30, 2019, § 87(2)(b) filed this complaint with the CCRB via telephone.

As detailed in CCRB case #201903287, on April 16, 2019, Lieutenant Eric Dym and Sergeant Natalie Bautista of Police Service Area 7 stopped § 87(2)(b) on suspicion of possessing a weapon, and ultimately transported him to the stationhouse and issued him a summons for disorderly conduct.

On April 27, 2019, at approximately 11:48 p.m., on

§ 87(2)(b) in the Bronx, Sgt. Bautista, Lt. Dym, Police Officer Lorvin Fernandez, and Police Officer Jose Tejada, all of PSA7, stopped an unidentified man (**Allegations A-D: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) approached Lt. Dym and Sgt. Bautista to complain about their actions in the prior incident described above, to tell them that he had filed a complaint against them, and to film them with his cellphone. Sgt. Bautista and Lt. Dym made remarks to § 87(2)(b) that allegedly constituted threats to forcibly hospitalize § 87(2)(b) (**Allegations E-F: Abuse of Authority, § 87(2)(g)**). Sgt. Bautista threatened to arrest § 87(2)(b) (**Allegation G: Abuse of Authority, § 87(2)(g)**). Lt. Dym attempted to stop § 87(2)(b) from filming the officers (**Allegation H: Abuse of Authority, § 87(2)(g)**). Sgt. Bautista and Lt. Dym handcuffed § 87(2)(b) transported him to the PSA7 stationhouse, and directed PO Tejada to issue him a summons for disorderly conduct (**Allegations I-J: Abuse of Authority, § 87(2)(g)**). The summons was ultimately dismissed in court.

The investigation obtained eight BWC videos (**Board Reviews 01-08**) and one cellphone video (**Board Review 09**) capturing this incident. The investigation also recovered surveillance footage from nearby NYCHA buildings, but this footage did not capture any portion of the incident (**Board Reviews 10-13**). All references to video evidence below refer to the time stamp in the video player, not the on-screen clock embedded in the footage.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Natalie Bautista stopped § 87(2)(b)**

**Allegation (B) Abuse of Authority: Lieutenant Eric Dym stopped § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Lorvin Fernandez stopped § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Jose Tejada stopped § 87(2)(b)**

§ 87(2)(b) testified (**Board Review 14**) that he was walking with his brother, § 87(2)(b) when he observed Sgt. Bautista, Lt. Dym, PO Fernandez, and PO Tejada, standing around a black man, who was standing with his back against a parked vehicle and with his hands raised. § 87(2)(b) could not identify this man. § 87(2)(b) did not hear any conversation between the officers and the man, and he did not witness the officers make any physical contact with the man.

§ 87(2)(b) provided a telephone statement to the CCRB (**Board Review 15**) but was not cooperative in providing a verified statement. § 87(2)(b) reported that he saw Sgt. Bautista, Lt. Dym, PO Fernandez, and PO Tejada standing around the man, but could not see if the officers made any physical contact with the man. § 87(2)(b) could not identify the man.

Lt. Dym's BWC footage (**Board Review 01**) captures a few seconds of a stop of an unidentified man. As Lt. Dym arrives on the scene, at 00:14, Sgt. Bautista and PO Tejada are standing around PO Fernandez and the man. PO Fernandez pats down the man's coat and removes items from his pockets before the video ends.

The investigation was unable to identify or establish contact with the victim. The officers did not

prepare a Stop Report documenting the interaction (**Board Review 16**), and none of the officers recorded any information about the stop in her or his memo book (**Board Reviews 17-20**). The investigation reviewed lists of warrant checks conducted by all of the officers on the date of the incident. PO Fernandez conducted a warrant check for § 87(2)(b) named “§ 87(2)(b)” approximately ten minutes prior to this incident (**Board Review 21**), but the investigation was unable to locate contact information for anyone by that name.

Sgt. Bautista testified (**Board Review 22**) that the officers were speaking to a group of unidentified men about basketball and recent crimes in the neighborhood. The officers may have suspected one of the men of something, but Sgt. Bautista denied the officers stopped any of the men and did not recall the officers frisking any of the men. When shown the video footage discussed above, Sgt. Bautista stated that the video refreshed her recollection that, while she and Lt. Dym were speaking to the group of unidentified men, PO Fernandez and PO Tejada had approached an unrelated man, whom Sgt. Bautista could not identify, because the man resembled § 87(2)(b) on a wanted poster. Sgt. Bautista denied witnessing PO Fernandez and PO Tejada’s interaction with this man.

Lt. Dym testified (**Board Review 23**) that he and Sgt. Bautista were speaking to a group of unidentified men about a robbery that had recently occurred, but he did not recall the officers stopping, frisking, or searching any of the men. Lt. Dym stated that there were other officers in the vicinity, but he did not specifically recall PO Fernandez or PO Tejada being on scene. When shown the video footage discussed above, Lt. Dym affirmed that the video captured an unrelated incident that had occurred earlier that evening.

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Sergeant Natalie Bautista threatened to remove § 87(2)(b) to the hospital.**

**Allegation (F) Abuse of Authority: Lieutenant Eric Dym threatened to remove § 87(2)(b) to the hospital.**

Body worn camera footage recorded by Sgt. Bautista (**Board Review 04**) and Lt. Dym (**Board Review 05**) captures this portion of the incident, beginning at 02:10. Lt. Dym asks § 87(2)(b) if he is “emotionally disturbed” and states that it is strange for § 87(2)(b) to approach the officers and ask for their names. Sgt. Bautista chimes in and asks § 87(2)(b) if he needs an ambulance and if he is on medication. § 87(2)(b) responds by asking the officers, “Are you okay?” and “Is your mother on medication?”

§ 87(2)(b) testified that, after he approached and began filming the officers, he spoke to Sgt. Bautista and Lt. Dym for approximately 30 seconds. The officers asked § 87(2)(b) why he was filming, § 87(2)(b) stated that he was permitted to do so, and Lt. Dym asked § 87(2)(b) to step across the street. Lt. Dym then asked § 87(2)(b) if he was on medication or needed to go to the hospital for mental health treatment. Lt. Dym’s remarks bothered § 87(2)(b) because he knew that, if an officer labeled someone as “crazy,” that person would be forcibly hospitalized.

§ 87(2)(b) reported that Lt. Dym asked § 87(2)(b) if he was crazy and if he wanted to go to the hospital.

Sgt. Bautista testified that she assessed that § 87(2)(b)’s behavior was “unusual” in that he

approached the officers and precipitated a confrontation with them, but that she could not determine if § 87(2)(b) was emotionally disturbed or a threat of harm to himself or others because she is not a doctor. Because § 87(2)(b)'s behavior was "unusual," Sgt. Bautista asked § 87(2)(b) if he was on medication or needed an ambulance. Sgt. Bautista recalled Lt. Dym also making statements about § 87(2)(b) being on medication and possibly asking § 87(2)(b) if he needed to go to the hospital, but she did not specifically recall these statements.

Lt. Dym testified that he assessed that § 87(2)(b)'s behavior in approaching the officers was "strange," but did not believe that § 87(2)(b) posed a threat of harm to himself. Lt. Dym asked § 87(2)(b) if he was on medication but did not recall either himself or Sgt. Bautista asking § 87(2)(b) if he needed to go to the hospital.

§ 87(2)(g)

**Allegation (G) Abuse of Authority: Sergeant Natalie Bautista threatened to arrest § 87(2)(b).**

**Allegation (H) Abuse of Authority: Lieutenant Eric Dym interfered with § 87(2)(b)'s use of a recording device.**

**Allegation (I) Abuse of Authority: Sergeant Natalie Bautista issued a summons to § 87(2)(b).**

**Allegation (J) Abuse of Authority: Lieutenant Eric Dym issued a summons to § 87(2)(b).**

It is undisputed that Sgt. Bautista and Lt. Dym were aware that § 87(2)(b) was filming them with his cellphone. It is also undisputed that they handcuffed § 87(2)(b) and transported him to the stationhouse. It is further undisputed that PO Tejada issued § 87(2)(b) a summons for disorderly conduct prior to his release from the stationhouse.

§ 87(2)(b) testified that Lt. Dym and Sgt. Bautista walked away from him after their conversation regarding his mental condition. § 87(2)(b) held his cellphone in his hand and filmed the officers while walking behind them for a few seconds. Lt. Dym and Sgt. Bautista ordered § 87(2)(b) not to follow them, and he immediately stopped walking. Lt. Dym and Sgt. Bautista then walked back to where § 87(2)(b) was standing. Lt. Dym said that § 87(2)(b) was "harassing" the officers, and Lt. Dym ordered § 87(2)(b) to stop filming. § 87(2)(b) protested that he was merely filming the officers and was not harassing them. Lt. Dym reached out and lightly slapped § 87(2)(b)'s hand and cellphone, jostling the phone and causing a temporary stinging sensation in § 87(2)(b)'s hand. § 87(2)(b) asked why Lt. Dym had touched him, at which time Sgt. Bautista asked Lt. Dym if he was "ready." Lt. Dym appeared to activate his BWC, and then Lt. Dym and Sgt. Bautista handcuffed § 87(2)(b).

Lt. Dym testified that, upon first arriving on scene, § 87(2)(b) approached within a foot of Sgt. Bautista, stated that he had filed a complaint about the officers, and raised his cellphone in front of Sgt. Bautista's face. At this time, Sgt. Bautista and Lt. Dym were discussing a recent robbery with the unidentified young men, but Lt. Dym did not recall suspecting any of the men of the robbery. Lt. Dym stressed that his interaction with the unidentified men was a "conversation" rather than an investigative stop. § 87(2)(b)'s arrival distracted the officers and the young men, so Lt. Dym told the young men to leave the scene. Lt. Dym and Sgt. Bautista then directed § 87(2)(b) to move back. Lt. Dym could not recall if § 87(2)(b) complied. Lt. Dym told § 87(2)(b) that he needed to film at a greater distance. Lt. Dym assessed that § 87(2)(b) did not have a right to film in this

position because § 87(2)(b) was too close to the officers and because he had interrupted their conversation with the young men. Lt. Dym did not recall ordering § 87(2)(b) to put down his phone or slapping § 87(2)(b)'s hand.

Lt. Dym testified that he believed § 87(2)(b) was “taunting,” “harassing,” and “intimidating” Sgt. Bautista by standing close to her and saying that he had filed a complaint. He specified that § 87(2)(b) was “intimidating” Sgt. Bautista because he was taller and larger than her. In his testimony, Lt. Dym noted that he had read an unspecified court decision in which a judge had determined that a civilian should stand at least six feet away from officers. Lt. Dym claimed that § 87(2)(b)'s behavior constituted disorderly conduct, because he was standing too close to Sgt. Bautista. Lt. Dym also claimed that § 87(2)(b)'s actions constituted obstructing governmental administration (OGA), because he interrupted the officers in their conversation with the young men. Lt. Dym did not recall § 87(2)(b) committing any infractions besides disorderly conduct and OGA.

Sgt. Bautista's account differed from Lt. Dym's with regard to § 87(2)(b)'s initial behavior; she did not recount that § 87(2)(b) immediately approached her and stuck his phone in her face. In fact, Sgt. Bautista did not recall § 87(2)(b) holding up a cellphone or attempting to film the officers at any point, and she did not recall Lt. Dym ordering § 87(2)(b) to put his phone down or slapping § 87(2)(b)'s hand. She recounted that § 87(2)(b) initially stood on the sidewalk about five to eight feet away from the officers when he first told them that he had filed a complaint. Within seconds of § 87(2)(b)'s arrival, the unidentified men with whom the officers had been speaking left the scene. She recounted that § 87(2)(b) followed her when she began walking toward her double-parked vehicle, and that he neared to within an arm's length of her back. Sgt. Bautista turned around, informed § 87(2)(b) that he was invading her personal space, and directed him to step back. § 87(2)(b) complied and stepped backward.

However, when Sgt. Bautista resumed her journey to her vehicle, § 87(2)(b) followed her into the street and stood in a position that would have obstructed passing traffic. Sgt. Bautista could not recall if § 87(2)(b) actually obstructed any vehicles on the street. Sgt. Bautista ordered § 87(2)(b) to return to the sidewalk. § 87(2)(b) said that he would do what he wanted in a raised voice, which attracted the attention of passersby and prompted two men to stop and watch the scene. § 87(2)(b) did not say anything to these two men, and they did not interact with him. Sgt. Bautista did not recall telling § 87(2)(b) that he would be arrested if he continued to follow her.

§ 87(2)(b) continued to argue with the officers for several minutes. Sgt. Bautista felt harassed by § 87(2)(b) in that he followed her and invaded her personal space. Sgt. Bautista assessed that § 87(2)(b)'s behavior constituted disorderly conduct. Specifically, she pointed to his failing to comply with her command that he not enter her personal space, his standing in the middle of the street in a manner that may have obstructed traffic, and his raising his voice and attracting the attention of passerby. Sgt. Bautista could not recall which specific subsection of the disorderly conduct penal law applied to § 87(2)(b)'s behavior. Sgt. Bautista testified that § 87(2)(b)'s actions did not interfere with any police action, and she stated that he did not commit any infraction other than disorderly conduct.

In his CCRB testimony, Lt. Dym recounted that Sgt. Bautista made the decision to arrest § 87(2)(b). Lt. Dym did not recall how Sgt. Bautista conveyed to him during the incident that she had decided to handcuff § 87(2)(b) and he did not recall if they had any conversation about the matter. Lt. Dym estimated that only 30-60 seconds elapsed between § 87(2)(b) arriving on scene and Sgt. Bautista deciding to handcuff him. Lt. Dym also testified that Sgt. Bautista did not explain to him her rationale for arresting § 87(2)(b). Similarly, Sgt. Bautista testified that Lt. Dym made

the decision to arrest § 87(2)(b) and issue him a summons, and she testified that Lt. Dym did not explain his rationale to her. She understood implicitly that the arrest was in response to § 87(2)(b)'s behavior.

PO Tejada prepared C-Summons # § 87(2)(b) citing § 87(2)(b) for disorderly conduct with no subsection listed (**Board Review 25**). The summons reads, "At TPO deft was obs on a public sidewalk intending to cause disruption acting in a violent & threatening manner towards officers by arguing, recording, and following to vehicle. Deft actions caused crowd to gather [*sic*]." PO Tejada's memo book entry regarding the summons includes Lt. Dym's name, and it refers to § 87(2)(b) as "Lt. Dym's arrest" (**Board Review 20**).

There is no video footage of § 87(2)(b)'s initial arrival on the scene, which occurs sometime in the 30 seconds between the end of Lt. Dym's first BWC clip (**Board Review 01**) and the beginning of PO Fernandez's first BWC clip (**Board Review 02**). There is, however, continuous video footage from multiple BWCs capturing approximately five minutes leading up to the time at which the officers handcuffed § 87(2)(b). BWC footage recorded by PO Fernandez (**Board Review 02**), Lt. Dym (**Board Review 03**), and Sgt. Bautista (**Board Review 04**) shows that § 87(2)(b), Sgt. Bautista, and Lt. Dym stood on the sidewalk discussing § 87(2)(b)'s mental condition before Lt. Dym said, "Have a nice night," and the officers began to walk away.

§ 87(2)(b)'s cellphone video (**Board Review 09**) begins at the same time that the officers deactivated their BWCs and began walking away from the scene. At 00:03, Lt. Dym tells § 87(2)(b) to "have a nice night," and the officers begin walking away toward their vehicles. § 87(2)(b) walks behind the officers on the sidewalk at a distance of several yards, as Lt. Dym and Sgt. Bautista are stepping into the street. The officers stop walking, and Lt. Dym and Sgt. Bautista both order § 87(2)(b) not to follow them. Lt. Dym specifies that § 87(2)(b) can film from a distance, but that he cannot follow them. Sgt. Bautista says, "If you follow me, you're going to end up in the precinct." § 87(2)(b) remains standing on the sidewalk, while Lt. Dym and Sgt. Bautista walk back towards him. At 00:33, Lt. Dym approaches § 87(2)(b) and says, "Put the phone down." Lt. Dym reaches his right arm towards § 87(2)(b) and the camera frame abruptly jerks. § 87(2)(b) audibly complains that Lt. Dym has touched him. Lt. Dym again tells him to put his phone down, § 87(2)(b) replies, "Don't touch me," and Lt. Dym asks him, "What are you gonna do?" § 87(2)(b) replies, "Touch me again—don't touch me." Lt. Dym looks at Sgt. Bautista as she asks him, "You ready?" Lt. Dym nods and says, "Yeah," activates his BWC, and moves to handcuff § 87(2)(b). At no point in the video does § 87(2)(b) raise his voice or stand in the street, and at no point does any crowd of bystanders gather to watch the interaction.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)



§ 87(2)(g)

As noted above, Lt. Dym and Sgt. Bautista each claimed that the other bore responsibility for the decision to issue the summons to § 87(2)(b). They are both supervisory officers, and they both testified that they believed § 87(2)(b) had committed disorderly conduct. In addition, the video footage shows that they briefly conferred with one another immediately prior to making the decision to handcuff § 87(2)(b). As a result, the investigation pleaded the improper summons allegation against both Lt. Dym and Sgt. Bautista.

NYPD Patrol Guide Procedure 203-29 (**Board Review 24**) states that members of the public have the right to lawfully record police activity, including detentions and searches, on public streets and sidewalks. This right can be limited when the person filming violates the law, or when it is necessary to ensure the safety of officers or other members of the public. Absent sufficient grounds, officers must not threaten, intimidate, or otherwise discourage a bystander from filming police activity, and they must not intentionally block or obstruct cameras when there is no legitimate law enforcement reason to do so. Absent additional actions constituting a violation of the law, § 87(2)(b) cannot be arrested for filming officers, requesting or making note of officers' names and shield numbers, criticizing or objecting to police activity, refusing to leave the area, or using crude or vulgar speech.

A person is guilty of obstructing governmental administration in the second degree when he prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force, or interference (**Board Review 26**). The official function being obstructed must be precisely specified. While various law enforcement actions, including "buy and bust" operations and the preparation of summonses, constitute official functions under the statute, an officer is not considered to be performing an official function simply by nature of being on patrol. People v Lawrence, 59 Misc. 3d 215 (Kings County Criminal Court 2018) (**Board Review 27**); In re Davan L., 91 N.Y.2d 88 (Court of Appeals 1997) (**Board Review 28**); People v. Joseph, 156 Misc. 2d 192 (Kings County Criminal Court 1991) (**Board Review 29**).

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he commits acts including engaging in violent, tumultuous or threatening behavior, or obstructing vehicular traffic (**Board Review 30**).

§ 87(2)(g)

§ 87(2)(g)



§ 87(2)(g)

**Allegation (K) Other Misconduct: There is evidence suggesting Sergeant Natalie Bautista provided a false official statement in violation of PG 203-08.**

The CCRB recommends that the NYPD conduct further investigation because there is evidence suggesting that Sgt. Bautista provided a false official statement.

As discussed above, officers' BWC footage (**Board Review 02-04**) and § 87(2)(b)'s cellphone footage (**Board Review 09**) document that § 87(2)(b)'s interaction with Sgt. Bautista took place on the sidewalk.

The following verbatim exchange occurred between 13:40 and 15:25 in Sgt. Bautista's CCRB interview:

**Inv. Phillips:** At what point did he start getting loud?

**Sgt. Bautista:** When he was told several times to back, because we're in the street now. We told him to go back on the sidewalk and now he starts talking and he's upset and he's riled up and his brother comes over.

**Inv. Phillips:** Okay, so if I'm understanding you correctly in the chain of events: you're walking, you ask him to step back, he steps back, then you continue to your car. He follows you, he follows you all the way into the street, and that's when he gets upset, gets riled up?

**Sgt. Bautista:** No, afterwards, when we tell him to get on the sidewalk, go home.

**Inv. Phillips:** Is he standing in the street at this point?

**Sgt. Bautista:** Yes.

**Inv. Phillips:** Is he obstructing traffic?

**Sgt. Bautista:** Yes.

Upon reviewing the above-mentioned cellphone footage, which captures the portion of the incident in which Sgt. Bautista begins walking to her vehicle before stopping to chastise § 87(2)(b) for following her, Sgt. Bautista affirmed that this footage began after § 87(2)(b) followed her into the street and did not alter her previous testimony. Sgt. Bautista did not offer any other explanation for the discrepancy between her testimony and the video footage, and she did not dispute the contents of the video footage.

According to NYPD Patrol Guide Procedure 203-08 (Board Review 34), the "intentional making of a false official statement is prohibited, and will be subject to disciplinary action, up to and including dismissal. Intentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances."

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
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- Sgt. Bautista has been a member of the NYPD for 19 years and has been a subject in seven prior CCRB cases and 13 allegations, none of which was substantiated. Two of those cases with four allegations are still pending investigation. In addition, Sgt. Bautista is a subject in four CCRB cases and 17 allegations for complaints filed after the complaint discussed in this report. § 87(2)(g)
- Lt. Dym has been a member of the NYPD for 16 years and has been a subject in 20 prior CCRB cases and 53 allegations, of which five were substantiated:
  - 201114190 involved a substantiated allegation of stop of person against Lt. Dym. The Board recommended a Command Discipline, but the NYPD imposed no discipline due to the statute of limitations.
  - 201804541 involved a substantiated allegation of discourtesy against Lt. Dym. The Board recommended Command Discipline A, and the NYPD imposed Instructions.
  - 201810625 involved substantiated allegations of property damage and discourtesy against Lt. Dym. The Board recommended Formalized Training, and the NYPD imposed Command Level Instructions.
  - 201900061 involved a substantiated allegation of entry of premises against Lt. Dym. The Board recommended Command Level Instructions, and the NYPD imposed Formalized Training.
- § 87(2)(g)

#### Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 25, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**Board Review 32**).
- § 87(2)(b)

Squad No.: 5

Investigator: Julian Phillips SI Julian Phillips September 30, 2020  
Signature Print Title & Name Date

Squad Leader: Daniel Giansante      IM Daniel Giansante      September 30, 2020  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_

Signature                      Print Title & Name                      Date